

NOTICE OF ADOPTION OF FINAL RULE

The Procurement Policy Board has adopted amendments to **Chapter 3 Methods of Source Selection** of its Rules pursuant to Section 311 of the New York City Charter. The amendments were published in *The City Record* on April 27, 2012, and the required public hearing was held on June 4, 2012. The amendments were adopted by the Procurement Policy Board on April 8, 2013. These rules will take effect 30 days after publication.

Statement of Basis and Purpose

The amendment increases the dollar amount below which procurement and award of contracts may be made without competition from \$5,000 to \$20,000, in order to increase micropurchase awards to minority and women-owned business enterprises (M/WBEs). The rule also clarifies that agencies are to include M/WBEs when distributing micropurchase awards amongst responsible vendors. Pursuant to Charter §314 this change will require concurrent action of the New York City Council. The amendment also requires all small purchases of more than \$20,000 to be procured by use of a written solicitation.

The Proposed Rule Amendments

New material is underlined and deletions are [bracketed].

Section 1. Section 3-08 of Chapter 3 of Title 9 of the Rules of the City of New York is amended as follows:

§3-08 Small Purchases

(a) Definition. Small purchases are those procurements in value of not more than \$100,000. This shall be known as the small purchase limit.

(b) Application. A procurement shall not be artificially divided in order to meet the requirements of this section. Changes to and/or renewals of small purchases shall not bring the total value of the procurement to an amount greater than the small purchase limits.

(c) Scope.

(1) Competition Objective.

(i) Public notice of solicitation and award, presolicitation review report, Recommendation for Award, vendor protests, written notice to the low bidder or offeror of non-responsiveness, VENDEX Questionnaire (unless the aggregate value of purchases, franchises, and concessions awarded to that vendor including this one during the immediately preceding twelve-month period equals or exceeds \$100,000), and

public hearing shall not be required for small purchases awarded pursuant to this section.

- (ii) Micropurchases. For procurements the value of which is [\$5,000] \$20,000 or less, no competition is required except that in making purchases below this limit, Contracting Officers shall ensure that the noncompetitive price is reasonable and that purchases are distributed appropriately among responsible vendors, including M/WBE vendors. Documentation of such purchases shall identify the vendor the item was purchased from, the item purchased, and the amount paid.

- (iii) For procurements in value over [\$5,000] \$20,000 through the small purchase limits, at least five vendors shall be solicited at random from the appropriate citywide small purchases bidders list established by the CCPO for the particular goods, services, construction, or construction-related services being purchased, except where the bidders list consists of fewer than five vendors, in which case all vendors on the list shall be solicited. Agencies may additionally employ any small purchase technique sanctioned by DSBS that is not otherwise in violation of these Rules. The agency may solicit additional vendors but only with the approval of the CCPO. Responsive bids or offers shall be obtained from at least two vendors. For purposes of this section, a response of “no bid” is not a responsive bid. If only one responsive bid or offer is received in response to a solicitation, an award may be made to that vendor if the Contracting Officer determines that the price submitted is fair and reasonable and that other vendors had reasonable opportunity to respond.

(2) Solicitation Methods and Use.

- [(i) Agencies shall use the following solicitation methods for] For small purchases valued at more than [\$5,000] \$20,000, agencies shall use [:
 - (A) for small purchases of goods valued at not more than \$25,000, an oral or written solicitation describing the requirements, or
 - (B) for small purchases of goods valued at more than \$25,000, a written solicitation describing the requirements, and
 - (C) for small purchases of services,] a written solicitation describing the requirements[.
- (ii) An oral or written solicitation for a small purchase], which shall contain, at a minimum:
 - [(A)](i) a description of the item or service requested;
 - [(B)](ii) time, date, place, and form of requested response;
 - [(C)](iii) basis for award; and
 - [(D)](iv) name and telephone number of the Contracting Officer to whom inquiries may be directed.

(d) Award. Small purchases valued at over [\$5,000] \$20,000 shall be awarded to the lowest responsive and responsible bidder or to the responsive and responsible offeror that has made the most advantageous offer. After such determination has been made and all necessary approvals have been obtained, the Contracting Officer shall issue a purchase order or contract, as appropriate, to the successful bidder or offeror.